

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE ENERGY LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-325 Erie
	:	
VICTORY ENERGY OPERATIONS	:	Judge Sean J. McLaughlin
LLC,	:	
	:	
Defendant	:	
	:	
	:	JURY TRIAL DEMANDED

**DEFENDANT’S MOTION IN LIMINE NO. 4 TO
BAR REFERENCE TO DAMAGES OR INJUNCTIVE RELIEF
DURING LIABILITY PHASE OF TRIAL**

Defendant Victory Energy Operations LLC (“VEO”), by its undersigned counsel, for its Motion *In Limine* To Bar Reference to Damages or Injunctive Relief During Liability Phase of Trial, states as follows:

1. Plaintiff seeks recovery of damages as well as injunctive relief against Defendant arising out of purported claims of trademark infringement and trade secret misappropriation.
2. On November 3, 2006, this Court has entered a case management order bifurcating the trial of this cause into separate liability and, if necessary, damages phases.
3. This Court has discretion to regulate the order of witnesses and evidence so as to effectively ascertain the truth and to avoid needless consumption of time. FED.R.EVID. 611(a).

4. Moreover, the Court has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its submission will be unduly prejudicial, confusing, misleading or time-consuming. FED.R.EVID. 403.

5. Unless and until Defendant's alleged liability to Plaintiff is proven, any evidence or argument related to the damages or injunctive relief sought by Plaintiff is wholly irrelevant to any issue to be determined during the liability phase of this trial. Moreover, the submission of any such evidence or argument would be unduly prejudicial to Defendant while being confusing and misleading to the jury.

WHEREFORE, Defendant Victory Energy Operations LLC requests that the Court enter an order barring reference to damages or injunctive relief during the liability phase of trial.

Dated: April 27, 2007

Respectfully submitted,

/s/ Christopher T. Sheean
One of the Attorneys for Defendant,
VICTORY ENERGY OPERATIONS
LLC

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MOTION *IN LIMINE* CERTIFICATE

Christopher T. Sheean, an attorney, certifies pursuant to Local Rule 16.1.4(D), that all parties made a reasonable effort to reach agreement on the issues raised by this motion prior to its filing.

/s/ Christopher T. Sheean_____

CERTIFICATE OF SERVICE

Christopher T. Sheean, an attorney, certifies that on the 27th day of April, 2007, he caused a copy of the foregoing ***Motion In Limine To Bar Reference to Damages or Injunctive Relief During Liability Phase of Trial*** to be filed electronically, and that the CM/ECF system for the court will e-mail a copy of the foregoing to the following counsel of record:

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/s/ Christopher T. Sheean
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